

§ 201.31

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AUTHORITY: 15 U.S.C. 77s, 78w, 78x, 79t, 77sss, 80a-37 and 80b-11; 5 U.S.C. 504(c)(1).

SOURCE: 47 FR 610, Jan. 6, 1982, unless otherwise noted.

Subpart A [Reserved]

17 CFR Ch. II (4-1-04 Edition)

Subpart B—Regulations Pertaining to the Equal Access to Justice Act

§ 201.31 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (called *the Act* in this subpart B), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called *adversary adjudications*) before the Commission. An eligible party may receive an award when it prevails over the Commission, unless the Commission's position was substantially justified or special circumstances make an award unjust. The rules in this subpart describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the Commission will use in ruling on those applications.

[54 FR 53051, Dec. 27, 1989]

§ 201.32 When the Act applies.

The Act applies to adversary adjudications described in § 201.33 pending or commenced before the Commission on or after August 5, 1985. It also applies to any adversary adjudication commenced on or after October 1, 1984, and finally disposed of before August 5, 1985, provided that an application for fees and expenses, as described in these rules, has been filed with the Commission within 30 days after August 5, 1985. Proceedings which have been substantially concluded are not deemed pending under these rules although officially pending for purposes such as concluding remedial actions found in Commission orders or private undertakings.

[54 FR 53051, Dec. 27, 1989]

§ 201.33 Proceedings covered.

(a) The Act applies to adversary adjudications conducted by the Commission. These are on the record adjudications under 5 U.S.C. 554 in which the position of an Office or Division of the Commission as a party, not including *amicus* participation, is presented by an attorney or other representative who enters an appearance and participates in the proceeding. See appendix, 17 CFR 201.60.